

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-1875

United States of America,

Appellee,

v.

Gary L. Rockwood,

Appellant.

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Appeal from the United States
District Court for the District
of Nebraska.

[UNPUBLISHED]

Submitted: September 24, 2002

Filed: October 9, 2002

Before McMILLIAN, FAGG, and BOWMAN, Circuit Judges.

PER CURIAM.

After a hearing, the district court* found Gary L. Rockwood had violated his supervised release conditions. The court revoked supervised release and sentenced Rockwood to twelve months and one day imprisonment, to be followed by twenty-four months supervised release. On appeal, Rockwood contends (1) the district court's finding that he violated certain release conditions was clearly erroneous, and

*The Honorable Joseph F. Bataillon, United States District Judge for the District of Nebraska.

(2) the district court abused its discretion in sentencing him. We reject Rockwood's arguments and affirm.

First, the district court did not commit clear error in finding Rockwood violated his supervised release by entering into a transaction with a financial institution without first obtaining his probation officer's written approval, and by lying to his probation officer about his status as an investor in a theatrical productions business. See United States v. Noland, 960 F.2d 1384, 1390 (8th Cir. 1992) (standard of review).

Second, the district court, which commented on the seriousness of Rockwood's violations and noted the revocation sentencing range recommended by Chapter 7 policy statements, did not abuse its discretion in imposing the revocation sentence. See United States v. Grimes, 54 F.3d 489, 492-93 (8th Cir. 1995) (standard of review); United States v. Shaw, 180 F.3d 920, 922 (8th Cir. 1999) (revocation sentence exceeding non-binding Guidelines range is not "upward departure").

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.